



**Request for Qualifications
For
Graphic Design Services**

Overview

In 2013, the Dublin City Council identified creation of a comprehensive City marketing and branding plan as a City Strategic Initiative. The City of Dublin worked with a consultant to develop an updated City brand, logo and looks which convey Dublin's attributes, as well as implementation guidelines to launch an identity and awareness campaign for businesses and residents. Subsequently, the City of Dublin has begun to integrate elements of the marketing and branding plan into development of select promotional and outreach materials.

The City of Dublin (City) is requesting a summary of qualifications from graphic design firms (Consultant) to supplement existing efforts in implementation of the marketing and branding plan, including the design of informational flyers, fact sheets, postcards, print and electronic newsletters, maps, reports, displays, brochures, presentations, technical illustrations, advertisements, logos, folders, and other similar collateral materials for print and digital media. These services are often required on a short turnaround basis. Consequently, the City is seeking experienced and qualified graphic designers to provide such services on an as-needed basis for graphic design projects of varying size, style, complexity and schedule. Work will be assigned to the selected Consultant depending on the City's requirement, the consultant's availability, and the consultant's demonstrated ability in meeting the City's requirement.

The City estimates an expenditure of up to \$60,000 throughout the lifetime of the agreement.

Proposed Schedule for RFQ Process

Tuesday, May 5, 2015	Submittals Due
Wednesday, May 20, 2015	Consultant Selection
Monday, June 8, 2015	Contract Finalized, Work Begins

A review committee will evaluate all responses to the RFQ that meet the submittal requirements and deadline. Submittals that do not meet the requirements or deadline will not be considered.

Submission Process and General Conditions

1. Interested Consultants shall deliver one (1) original submittal to:

Ms. Lori Taylor
Economic Development Director
100 Civic Plaza
Dublin, CA 94568
(925) 833-6650
lori.taylor@dublin.ca.gov

The preferred method of receipt of submittals is via e-mail as a PDF document but hard copies via mail will also be accepted.

2. Deadline for delivering the submittal is Tuesday, May 5, 2015, at 2:00 p.m. to the City Manager's Office at 100 Civic Plaza, Dublin, CA 94568.
3. The City will not pay for any costs incurred in preparation and delivery of the submittals or in anticipation of a contract. The format of submittals is at the discretion of the Interested Consultant.

Scope of Work

Consultant shall provide graphic design services to support City brand implementation and communications efforts. Consultant shall in each case discuss alternative approaches with City staff; devise preliminary and final drafts of layout and design, incorporating ideas, text and any artwork provided by the City for approval to the satisfaction of the City staff project manager; prepare and submit to the City and/or directly to designated printer upon City's consent final camera-ready artwork and electronic files of final artwork with all-print specifications to the satisfaction of City staff. Consultant may perform services that may include the following:

- Using adopted style guidelines, create the layout and design for projects and/or new templates for materials such as fact sheets, flyers, bill inserts, posters, newsletters, brochures, folders, pamphlets, reports, templates or other collateral material aimed at various target audiences. A copy of the City's Graphic Standards, including an overview of implementation guidelines, is provided as **Attachment 1**.
- Create print advertisements in accordance with publication requirements for newspapers, magazines or other publications as specified by the City; prepare and submit to City and/or directly to designated publication upon City's consent.
- Develop new or revise existing graphic design for promotional items and merchandise, signs, billboards, flags, banners, public displays, bus wraps, logos, decals, maps, video productions or presentations.
- Develop new or revise existing graphic designs for electronic newsletters, technical illustrations such as infographics, original illustrations, and other materials for online or mobile application use.
- Provide graphic design services for social media platforms such as Facebook.

- Develop a series of templates for general City outreach and notification with layouts including (but not limited to) postcards, meeting notices, and flyers.
- Develop new or revise existing graphic design for bike racks, trash cans, kiosks or other City infrastructure elements.

An electronic archive of all graphic design projects shall be developed and maintained by the Consultant for the City throughout the duration of the Agreement and fulfill the City's requests for electronic copies of archived projects, as needed. Upon termination of the Agreement, the entire electronic archive shall be delivered to the City in an appropriate format.

All reports, documents, artwork or other materials developed or discovered by the Consultant exclusively for the City, or any other person engaged directly or indirectly by the Consultant to perform the Services under this Agreement, shall remain the exclusive property of the City. During the Term of this Agreement, the Consultant is granted authority to solely use City reports, documents, artwork or materials to provide the Services under the Agreement with the City. Upon completion, termination or cancellation of the agreement, Consultant shall remit all such materials and artwork to the City.

All final PDFs to be posted on the web shall be provided in an ADA compliant format.

Qualifications

The Consultant shall demonstrate the following qualifications:

- At least two years of experience in graphic design of the types of print and digital/web products described in the above scope of work. These years of experience must be demonstrated in a professional cover letter;
- An ability to interpret project requirements and provide work examples suitable for those requirements;
- An ability to work well with clients, writers, editors, artists, photographers, and printers in the development of published materials and digital design work. References shall suffice to demonstrate this capacity;
- An ability to provide digital graphic materials that render appropriately on all technology platforms, devices and browsers; meet the requirements of the Americans with Disabilities Act; and are appropriately formatted for web posting;
- An ability to meet tight deadlines with consistently high-quality work.
- Proficiency in latest version of Adobe Creative Cloud applications, including but limited to InDesign, Illustrator, Photoshop, and Dreamweaver; as well as the latest version of Microsoft Office applications.

Preference shall be given to Consultants who demonstrate:

- Experience with government agencies or nonprofit organizations, and/or
- A City of Dublin professional location.

Submittal Process

The City intends to select a consultant based on quality of submittal, work experience, references, and cost for services. The lowest price submittal will not necessarily be selected. The City reserves the right to select a consultant based on its sole discretion. Each submittal will be evaluated based on the current needs of the City.

The City reserves the right to reject any or all submittals, without penalty to the City, or to request and obtain from one or more of the submitting businesses supplementary information as may be necessary for City staff to analyze the qualifications pursuant to the consultant selection criteria contained herein. The City reserves the right to award a contract to the company that the City feels best meets the requirements of the RFQ.

The City may require consultants participate in additional rounds of discussions, negotiations, or more refined submittals before the ultimate selection of a consultant is made. These rounds could encompass revisions of the submittal criteria in response to the nature and scope of the initial qualifications.

Submittals must include the following:

1. Cover Letter: A statement of qualifications to provide graphic design services to the City.
2. Scope of Work and Portfolio: Samples of work which sufficiently demonstrate Consultant's background and experience as outlined in the "Qualifications" section.
3. Estimate of Costs: The estimate of costs and hours for various tasks, attached as **Attachment 2**, included with the submittal by the submission deadline (hours should include any anticipated revisions). The rates will remain effective for the term of the contract.
4. References: A minimum of three (3) references from clients that would substantiate the Consultant's experience and expertise providing similar services as required by the City. Reference information shall include: Name, Address, Contact, Title, Phone Number, Term of the Contract, and Scope of Work.

Review and Selection Process

Evaluations of the submittals will include quality of the submittals, qualifications and experience, references, and cost for services. The lowest priced bidder will not necessarily be selected to provide graphic design services to the City. Submittals that do not meet the requirement or deadline will not be considered:

The criteria to be considered during the evaluation are as follows:

1. Overall responsiveness of the submittal. Submittals shall be complete, address all aspects of the RFQ, and include a cover letter, scope of work, estimate of costs, and references.
2. The Consultant's qualifications and experience.
3. Overall quality of the professional graphic design samples submitted for consideration.
4. A review of the Consultant's performance, and service history as determined by reference checks and/or the City's prior experience with the Consultant.
5. Cost.

Agreement Form

It is anticipated that the services covered by the agreement resulting from this solicitation will be performed on a "total cost per product" basis for a specified scope of work as outlined in the Estimate of Costs. The term of the agreement will expire on June 30, 2017.

A sample of the Consulting Services Agreement (Agreement) is provided as Attachment 3, which sets for the terms and conditions for services and payment and includes the insurance requirements. If the insurance requirements exceed your existing coverage, the price of your submittal should include the amount necessary to meet the insurance requirements provided for in the Agreement. If the Consultant desires to take exception to the Agreement, they must clearly identify proposed changes to the Agreement in their submittal and furnish the reason for these changes. The exceptions will be taken into consideration in evaluating the submittals. Otherwise, the Consultant is to state in writing in the submittal that the Agreement is acceptable to them.

Insurance Requirements

The Consultant shall provide proof of existing insurance coverage.

A handwritten signature in cursive script, reading "Lori Taylor", positioned above a horizontal line.

Lori Taylor
Economic Development Director

Attachment 1 - Graphic Standards



DUBLIN
CALIFORNIA

Graphic Brand Standards

These graphic standards were developed as a method for protecting the graphic brand of Dublin, California. It is important to consult with and follow the enclosed guidelines to maintain the integrity of the brand. If you need any additional information or guidance, please Contact Erin Steffen in the Dublin Economic Development Department at 925.556.4524 or erin.steffen@dublin.ca.gov.

Dublin, California Logo Usage

The following guidelines illustrate the proper use of the Dublin, California logo.

Full color logo

The logo may be represented in full color using either spot color or 4 color process printing techniques.



One color logo

The logo may be represented in a single color using PMS 362, PMS 135, PMS 7697, PMS 7523 or Black with either spot color or 4 color process printing techniques.



Reversed logo

The logo may be reversed out of a dark background but should be printed on white whenever possible.



Logo elements

The elements shown may be used separately from the logo when appropriate following the above color guidelines. They may be used as a group, separately or as a pattern (as shown).



Dublin, California Logo with Strap Line

The Dublin, California logo may appear with the strap line as shown below. The preferred way the line should be represented is shown below with the strap line appearing in the Gill Sans Light typeface.



Recommended Dublin, California Spacing

No other object should be placed within the safe area around the logo as specified below.

The safe area is an area identified by the width of the "O" in the logo. (See example)



Dublin, California Typeface

Logos

Files have been provided in a variety of formats that allow use of the Dublin logo without purchasing typefaces. The logo itself is considered a piece of artwork and should not be changed. However, if additional customizations are made to the logo, such as adding a community department name, it will be necessary to purchase the typeface.



“Dublin” in Logo - Gill Sans Bold

GIL Sans Bold AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz

“California” in Logo - Gill Sans Light

Gil Sans Light AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz

Print Applications

Headlines - Veneer Regular

VENEER REGULAR ABCDEFGHIJKLMNOPQRSTUVWXYZ

Headlines - Eraser

ERASER AABBBCCDDEEEFFGGHHIIJJKKLLMMNNNOOPPQQRRSSSTTUUVVWWXXYYZZ

Body Copy - Georgia Regular

Georgia Regular AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVv

Unacceptable Logo Applications

The following are examples of improper modifications of the Dublin, California logo that may violate the integrity of the Dublin, California brand.



DO NOT use any unofficial colors or any combination of colors different than the official logo colors.



DO NOT add unofficial copy or graphics covering any part of the logo.



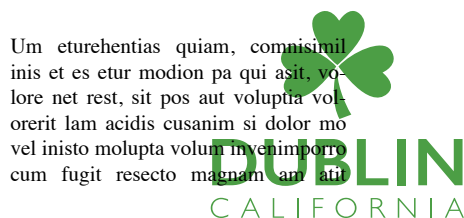
DO NOT delete, add or adjust any element of the logo.



DO NOT change the proportions of the logo.



DO NOT rotate or flip the logo.



DO NOT screen the logo or use the logo behind text.



DO NOT print the logo on a background or image that makes it difficult to read.



DO NOT try to recreate this logo. Use only the artwork provided. Elements of the font have been adjusted and should not be typeset or replaced with any other font.



DO NOT alter the logo for any other unapproved entity.

Recommended Dublin, California Color Palette

The color palette provides a guide for keeping a consistent color scheme within the community's communications. Professional printing services may request a coated or uncoated palette based on specific printing paper used and quality desired. Consult the color palettes shown below and work closely with professional printing services to ensure proper color palettes are used.

Primary Color Palette

COATED COLORS



PMS 362 C
C/78 M/0 Y/100 K/2
R/80 G/158 B/47
WEB #509e2f



PMS 135 C
C/0 M/22 Y/65 K/0
R/255 G/198 B/88
WEB #ffc658



PMS 7697 C
C/76 M/34 Y/21 K/0
R/78 G/135 B/160
WEB #4e87a0



PMS 7523 C
C/10 M/67 Y/49 K/23
R/171 G/92 B/87
WEB #ab5c57

Primary Color Palette

UNCOATED COLORS



PMS 369 U
C/55 M/0 Y/92 K/3



PMS 121 U
C/0 M/20 Y/68 K/0



PMS 7690 U
C/90 M/39 Y/10 K/0



PMS 7628 U
C/7 M/78 Y/72 K/14

Dublin, California - Identity Specification Guide

COLORS

Production of artwork by different techniques may require the use of different color matching systems. For the most consistent use of the identity palette, the recommended breakdowns are as follows.

Printing

Pantone® (PMS)

Green - C	PMS 362 C
Yellow - C	PMS 135 C
Blue - C	PMS 7697 C
Red - C	PMS 7523 C

4-Color Process (CMYK)

Green - C	C/78 M/0 Y/100 K/2
Yellow - C	C/0 M/22 Y/65 K/0
Blue - C	C/76 M/34 Y/21 K/0
Red - C	C/10 M/67 Y/49 K/23

Green - U	PMS 369 U
Yellow - U	PMS 121 U
Blue - U	PMS 7690 U
Red - U	PMS 7628 U

Green - U	C/55 M/0 Y/92 K/3
Yellow - U	C/0 M/20 Y/68 K/0
Blue - U	C/90 M/39 Y/10 K/0
Red - U	C/7 M/78 Y/72 K/14

On-Screen

Web-Safe (HEX)

Green	#509e2f
Yellow	#ffc658
Blue	#4e87a0
Red	#ab5c57

RGB

Green	R/80 G/158 B/47
Yellow	R/255 G/198 B/88
Blue	R/78 G/135 B/160
Red	R/171 G/92 B/87

FILE USAGE

Use of digital artwork in different applications requires the use of different digital file formats.

To ensure the best quality reproduction, the following file format uses are suggested:

Word

.EPS
.BMP
.JPG
.GIF
.TIF

PowerPoint

.PNG
.BMP
.JPG
.GIF
.TIF

WEB (HTML)

.JPG
.GIF

InDesign, Quark

XPress
.EPS
.TIF

Pagemaker

.EPS
.TIF

Crafting the Tone for the Dublin, California Brand

To ensure that messaging resonates with the audience, the brand vocabulary and brand narrative must inspire and attract the target audiences by creating greater emotional connections and greater understanding for Dublin.

Dublin, California Brand Vocabulary

The brand vocabulary defined in this guide provides a common language that reinforces brand attributes and brand positioning for use in communications materials, press releases, interviews, presentations and general conversation among city officials, brand partners, areas businesses and internal/external audiences.

Backyard	Family-friendly	Grounded
Neighborhoodly	Artistic	All-American
Friendly	Entrepreneurial	Location
Connection	Affordable	Spirited
Diverse	Youthful	Comfortable
Cool	Inspired	Accessible
Active	Shared	Green
Congenial	Neighborhood	Hardworking
Forward thinking	Vibrant	United
Free-spirited	Unique	Gathering
Culture	Vibe	Modern
Energy	Momentum	Progressive
Dynamic	Genuine	Social
Thriving	Growth	Ease
Casual	Relaxed	Convenient
Laid-back	Innovative	Engaging
Belonging	Ambitious	Supportive

Dublin, California Brand Narrative

The Dublin Brand Narrative uses emotional language to establish the written character of the Dublin brand. Stakeholders throughout the community should be encouraged to use all or some of the copy as is when describing the Dublin community or the relationship of Dublin to an organization, event or businesses. The narrative can also be used to guide the tone of new copy.

The New American Backyard

Americans love our back yards. Literally, back yards are places to relax, enjoy life, escape from the pressures and cares of the day and let our hair down. Figuratively, back yards represent the American Dream...of success, of belonging, of family. They're places where we can be ourselves. And while it's true that the world is changing, and America is changing, what the back yard represents isn't changing at all.

Dublin is a brilliant, beautiful example of these changing times. America has always been a melting pot of different cultures, races, religions and sensibilities and Dublin reflects this grand old American ideal. But Dublin is actually more reflective of the new America – an America where these diverse groups are melded together in a truly integrated whole, not separated and divided as was often the case in the past. Dublin's strong Asian, Indian, African-American, Hispanic and European influences combine to make Dublin a well-educated, well-heeled community that offers the best of many worlds all wrapped up in one powerful package. That's one of the reasons Dublin has been given the "All-America City" designation. So our back yard is the new American back yard in more ways than one. You're liable to find most anyone stopping by for a visit.

None of this happened overnight. We started establishing our backyard back in the 1800s when Irish settlers officially founded the town. But Dublin's relationship to Northern California stretches back more than 200 years when the destination served as an important stop along the way for weary travelers.

Today Dublin is growing faster than virtually any other city in California. Business opportunities, restaurants, the arts, shopping and recreation options are all exploding. Location has a lot to do with this growth, to be sure. We're just 35 miles from San Francisco, 18 miles from Oakland and 30 miles from the heart of the Silicon Valley, practically in their back yards. But we are a dynamic, thriving community, not just your typical 'burb. Dublin has the advantage of being close to those major urban centers, but you never even have to leave our friendly streets to do business. Essentially we are a satellite location, allowing people to conduct the same business here in our backyard...but in a more relaxed environment.

As a result more than 1,200 companies already call Dublin home. Business start-ups are on the rise, from mom and pops and entrepreneurs, to large corporate tenants and Fortune 500 companies, plus everything in between. And, with Dublin's close proximity to Silicon Valley and our skilled workforce, there's a real concentration on the technology sector and emphasis on innovation.

Of course, we're not all business. With a green network of 19 public parks, plus playgrounds, miles of hiking and biking trails, and lots of soccer and baseball fields, Dublin's open spaces serve as a figurative backyard that unifies the whole community. And all that green space certainly justifies our Emerald Isle reputation. We put it to good use, too. Dubliners love to get together for everything from a day in the park with the family to a major festival attracting thousands of guests, like our famous St. Patrick's Day celebration, our awesome Splatter art/food/wine fest, Farmer's Markets, Spring Faire, Harvest Faire or Holiday Faire. It's fair to say that in our communal backyard, something is always going on.

We think this unpretentiously ambitious, casually sophisticated style is a big part of why Dublin is so popular these days. Here you can have your life and live it, too. We don't have to take a trip around the world or live in the big city to find success or happiness. We've got it all...right here in our own new American back yard.

Attachment 2

Estimate of Costs

	Description	Cost Not To Exceed	Estimated Number of Hours
1	Event Invitation		
2	Flyer Template ¹ (8.5" x 11")		
3	Meeting Notice Template ¹ (8.5" x 11")		
4	Postcard Template ¹		
5	Stylized Map of City (11" x 17")		
6	1-page Informational Sheet (8.5" x 11")		
7	Folder (Folded 9"x12")		
8	Brochure ¹		
9	Street Pole Banner		
10	Logo		
11	Print Magazine Ad		
12	Billboard Ad		
13	Promotional Signage		
14	Infographic		
15	Hourly Rate (for Miscellaneous)		
16	Anticipated Reimbursable Expenses (please list)		

Any travel time and reimbursables should be contained in your "not to exceed" amounts provided above. The City will not separately reimburse for travel or other reimbursables.

¹: All templates should be provided in PowerPoint, Word, and/or Excel file format.

Attachment 3 - Sample Consulting Services Agreement

CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF DUBLIN AND [NAME OF CONSULTANT]

THIS AGREEMENT for consulting services is made by and between the City of Dublin ("City") and _____ ("Consultant") as of _____, 20__.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the date first noted above and shall end on _____, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. Consultant shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Consultant's profession.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed _____, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder, as well as a separate notice when the total number of hours of work by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours, which shall include an estimate of the time necessary to complete the work described in Exhibit A;
- The Consultant's signature.

2.2 **Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 **Final Payment.** City shall pay the last 10% of the total sum due pursuant to this Agreement within sixty (60) days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.

2.4 **Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

- 2.5 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the following fee schedule:
- 2.6 **Reimbursable Expenses.** Reimbursable expenses are specified below, and shall not exceed (\$). Expenses not listed below are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.7 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.8 **Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets in order to verify costs incurred to that date.
- 2.9 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such

insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

- 4.1 **Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

An endorsement shall state that coverage shall not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. Consultant shall notify City within 14 days of notification from Consultant's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

4.2 **Commercial General and Automobile Liability Insurance.**

- 4.2.1 **General requirements.** Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.
- 4.2.2 **Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) or Insurance Services Office form number GL 0002 (ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office

Automobile Liability form CA 0001 (ed. 12/90) Code 8 and 9 ("any auto"). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- a. City and its officers, employees, agents, and volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or volunteers.
- b. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- c. An endorsement must state that coverage is primary insurance with respect to the City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.
- d. Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.
- e. An endorsement shall state that coverage shall not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. Consultant shall notify City within 14 days of notification from Consultant's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

4.3 Professional Liability Insurance. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

4.3.1 Any deductible or self-insured retention shall not exceed \$150,000 per claim.

4.3.2 An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30)

days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.3.3 The policy must contain a cross liability or severability of interest clause.

4.3.4 The following provisions shall apply if the professional liability coverages are written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. The City shall have the right to exercise, at the Consultant's sole cost and expense, any extended reporting provisions of the policy, if the Consultant cancels or does not renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this Agreement.

4.4 All Policies Requirements.

4.4.1 Acceptability of insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.2 Verification of coverage. Prior to beginning any work under this Agreement, Consultant shall furnish City with certificates of insurance and with original endorsements effecting coverage required herein. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

4.4.3 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4.4 Variation. The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms

of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.

- 4.4.5 Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, Consultant may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

- 4.4.6 Notice of Reduction in Coverage.** In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Consultant shall provide written notice to City at Consultant's earliest possible opportunity and in no case later than five days after Consultant is notified of the change in coverage.

- 4.5 Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Consultant shall indemnify, defend with counsel selected by the City, and hold harmless the City and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life,

damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City or its officers, employees, agents, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONSULTANT.

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 6.2 **Consultant No Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon thirty (30) days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs,

computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 **Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 8.4 **Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall included, but not be limited to, the following:
- 8.6.1 Immediately terminate the Agreement;
 - 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
 - 8.6.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

- 10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
- 10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so

adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

- 10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

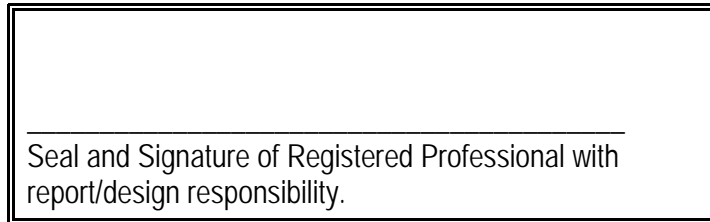
Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 **Contract Administration.** This Agreement shall be administered by _____ ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.10 **Notices.** Any written notice to Consultant shall be sent to:

Any written notice to City shall be sent to:

- 10.11 **Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.



- 10.12 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

CITY OF _____

CONSULTANT

[NAME, TITLE]

[NAME, TITLE]

Attest:

[NAME], City Clerk

Approved as to Form:

[NAME], City Attorney